

AGREEMENT BETWEEN UDOT AND FHWA FOR ENVIRONMENTAL APPROVAL AUTHORITY FOR SELECTED CATEGORICAL EXCLUSION DOCUMENTS

THIS AGREEMENT, made and entered into this ____31____ day of December 2003 by and between the Utah Department of Transportation, hereinafter referred to as UDOT and the Federal Highway Administration, hereinafter referred to as FHWA witnesseth that:

WHEREAS, UDOT commits, as individuals and as an organization, to the following goals and objectives:

- Engage, collaborate, negotiate and partner with stakeholders to share in decision-making. This objective will be accomplished through the following:
 1. UDOT will identify stakeholders early in project development so that decision making can be based on all input.
 2. UDOT will train project managers and other related personnel in effective public involvement.
- Maintain an organization conscious of environmental sensitivity, and community and neighborhood values while addressing the transportation need. This objective will be accomplished through the following:
 1. UDOT will maintain an environmental policy wherein environmental issues are a driver within the Department.
 2. UDOT will continue to train project managers and other related personnel in environmental ethics.
 3. UDOT will be responsible for environmental analysis, document preparation, quality control, and quality assurance.
 4. UDOT will have appropriate measurable environmental objectives in performance plans of personnel.
- Maintain a process to integrate environmental considerations into transportation decision making.

WHEREAS, with this good faith commitment to incorporate the goals and objectives above, it is understood that UDOT will:

- Accomplish transportation decision-making by incorporating current FHWA criteria and guidelines.
- Maintain early and continued coordination with local governments and resource agencies.
- Implement project specific public involvement plans, and evaluation effectiveness for ongoing improvements.
- Inform appropriate agencies, including FHWA, on unique projects and issues that could cause concern for any stakeholder.
- Prepare an adequate environmental study following the guidance of TA 6640.8A for all Level II and Level III categorical exclusion projects documenting that project impacts are not significant.
- Clearly define where responsibilities and processes lie within the department for: project environmental classification (Categorical Exclusion Levels I, II, and III), environmental analysis and document preparation, quality control, quality assurance, and document approval. These processes and responsibilities are documented in this agreement.
- Update and maintain the Environmental Manual of Instruction.
- Level I categorical exclusion projects as defined herein do not require environmental documentation.

Level II and III projects as defined herein require environmental documentation.

Project Classification

On a Region basis, FHWA and UDOT representatives meet at least annually to review the STIP and identify categorical exclusion projects not yet classified as Level I, II, or III that are designated to advance into the three-year program. UDOT representatives will provide information reasonably determine project classification based on project concept, environmental impact and potential for controversial issues. Any proposed changes to document classifications require written justification and final approval by FHWA.

Environmental Analysis and Document Preparation

The project manager and Environmental Staff will oversee the environmental analysis and document preparation through the use of adequate resources.

Environmental Quality Control

The Region Environmental Staff will perform quality control by monitoring all phases of environmental analysis and document preparation on an individual project basis. Components of the quality control will include verifying that all stakeholders and resource agencies are involved, the concepts of context sensitive design are properly considered and implemented, and the technical aspects of the environmental analysis are correct.

Environmental Quality Assurance

The Central Environmental Division will perform quality assurance by monitoring processes relating to environmental analysis and documentation, checking documents for process errors, and providing all aspects of training in transportation environmental technology.

Document Approval

The designated Region Staff will approve all adequately prepared Level II documents. The FHWA will approve all adequately prepared Level III documents.

Process Review

- The Central Environmental Staff and the FHWA will perform a process review procedure to verify that the above functions and processes are properly implemented, and that the environmental documents approved under the authority of this agreement fit into pre-assigned level classifications.
- Region environmental approval authority for CE Level II documents will be subject to review by the UDOT Environmental Director based on process review and quality assurance results.
- UDOT will undertake training programs to propagate the concepts of context-sensitive solutions, stakeholder involvement, and the UDOT environmental policy throughout the Department and consultants that prepare environmental documents.

NOW, THEREFORE, it is agreed that UDOT will receive authority to approve Level II Categorical Exclusion environmental documents. This authority applies to projects classified as Level II within the provisions of this agreement and meeting Level II criteria as established herein.

Level I, Level II, and Level III project classifications are established for all federal aid categorical exclusion projects that meet the following criteria:

LEVEL I - Activities requiring no further environmental documentation or approval:

1. Activities which do not involve or lead directly to construction such as planning and technical studies; grants for training and research programs; research activities as defined in 23 U.S.C. 307; approval of a unified work program and any findings required in the planning process pursuant to 23 U.S.C. 134; approval of statewide programs under 23 CFR Part 630; approval of project concepts under 23 CFR Part 476; engineering to define the elements of a proposed action or alternatives so that social, economic, and environmental effects can be assessed; and Federal-aid system revisions which establish classes of highways on the Federal-aid highway system.
2. Transfer of Federal lands pursuant to 23 U.S.C. 317 when the subsequent action is not an FHWA action.
3. Emergency repairs under 23 U.S.C. 125.
4. Determination of payback under 23 CFR Part 480 for property previously acquired with Federal-aid participation.
5. Ridesharing activities.
6. Bus and rail car rehabilitation.
7. Program administration, technical assistance activities, and operating assistance to transit authorities to continue existing service or increase service to meet routine changes in demand.
8. The purchase of vehicles by the applicant where the use of these vehicles can be accommodated by existing facilities or by new facilities which themselves are a CE.
9. Purchase and installation of operating or maintenance equipment to be located within the transit facility and with no significant impacts off the site.
10. Promulgation of rules, regulations, and directives.

LEVEL II - Activities requiring environmental documentation and approval:

1. Approval of utility installations along or across a transportation facility.
2. Construction of bicycle and pedestrian lanes, paths and facilities.

3. Activities included in the State's "Highway Safety Plan" under 23 U.S.C. 402.
4. The installation of noise barriers or alterations to existing publicly owned buildings to provide for noise reduction.
5. Landscaping.
6. Installation of fencing, signs, pavement markings, small passenger shelters, traffic signals, and railroad warning devices where no substantial land acquisition or traffic disruption will occur.
7. Acquisition of scenic easements.
8. Improvement to existing rest areas and truck weigh stations.
9. Alterations to facilities or vehicles in order to make them accessible for elderly and handicapped persons.
10. Track and railbed maintenance and improvements when carried out within the existing right-of-way.
11. Modernization of a highway by resurfacing, restoration, rehabilitation, reconstruction, adding shoulders, or adding auxiliary lanes (e.g. parking, weaving, turning, climbing).
12. Highway safety, truck escape ramps or traffic operation improvement projects including the installation of ramp metering control devices and lighting.
13. Bridge rehabilitation, reconstruction, or replacement, the construction of grade separation to replace existing at grade railroad crossings, or the removal of existing railroad grade separation structures.
14. Transportation corridor fringe parking facilities.
15. Construction of new truck weigh stations, rest areas, or tourist information facilities.
16. Approvals for disposal of excess right-of-way or for joint or limited use of right-of-way, where the proposed use does not have significant adverse impacts.

17. Construction of new bus storage and maintenance facilities in areas used predominantly for industrial or transportation purposes where such construction is not inconsistent with existing zoning and located on or near a street with adequate capacity to handle anticipated bus and support vehicle traffic.
18. Rehabilitation or reconstruction of existing rail and bus buildings and ancillary facilities where only minor amounts of additional land are required and there is not a substantial increase in the number of users.
19. Construction of bus transfer facilities (an open area consisting of passenger shelters, boarding areas, kiosks and related street improvements) when located in a commercial area or other high activity center in which there is adequate street capacity for projected bus traffic.
20. Construction of rail storage and maintenance facilities in areas used predominantly for industrial or transportation purposes where such construction is not inconsistent with existing zoning and where there is no significant impact on the surrounding community.
21. Wetland banking.
22. Construction of replacement wetlands. Wetland impacts are subject to evaluation during the project classification process and may lead to a Level III classification.
23. Projects that could involve but have a No Effect Determination on historic or archeological resources that are on or eligible for the National Register of Historic Places.

LEVEL III - Activities requiring environmental documentation and approval:

Categorical exclusion projects that contain features that meet or exceed any of the following criteria are Level III projects and will not be eligible for UDOT approval under the authority of this agreement. Level III projects require environmental documentation submitted through the UDOT Central Environmental Division, approval by the FHWA, and consultation with the FHWA will be on a continuous basis through the environmental analysis documentation process.

1. Addition of through travel lanes.
2. Approvals for changes in access control.
3. Acquisition of land for hardship or protective purposes, or advance land acquisition loans under section 3(b) of the UMT Act.

4. Involvement of properties protected under Section 4(f) requiring either a programmatic or an individual section 4(f) evaluation.
5. Involvement of formal Section 7 consultation on a threatened or endangered species.

The parties hereto agree to abide by all the provisions of this agreement.

IN WITNESS WHEREOF, they sign and cause this agreement to be executed:

Signed by John R. Njord

Date: November 23, 2003

Executive Director
Utah Department of Transportation

Signed by David C. Gibbs

Date: 12/31/03

Division Administrator
Utah Division
Federal Highway Administration